

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HANNA J. McANDIE,

Plaintiff,

v.

SEQUIM SCHOOL DISTRICT, ROBERT  
CLARK, and his marital community,

Defendants.

CASE NO. 3:21-cv-05227-JHC

ORDER


This matter comes before the Court on Plaintiff's Surreply to Defendant Robert Clark's Reply to Plaintiff's Response to Defendant Clark's Motion for Summary Judgment, Dkt. # 55, and Plaintiff's Surreply and Motion to Strike Defendant Sequim School District's (SSD) Reply on MSJ, Dkt. # 132.

On August 12, 2022, Clark moved for summary judgment. Dkt. # 37. On September 16, Clark filed a reply brief. Dkt. # 53. The same day, Plaintiff filed a surreply requesting that the Court either strike the new argument and evidence submitted with Clark's reply or permit Plaintiff to file a surreply with additional argument and evidence. Dkt. # 55 at 2. On December 27, SSD moved for summary judgment. Dkt. # 87. And on January 21, 2023, SSD filed a reply brief. Dkt. # 125. On January 24, Plaintiff filed a surreply requesting that the Court either strike

1 the new declarations SSD submitted with their reply or permit Plaintiff to file a surreply with  
2 additional evidence. Dkt. # 132 at 3.

3 A party seeking to “strike material contained in or attached to a reply brief . . . may file a  
4 surreply requesting that the court strike the material.” W.D. Wash. Local Civil Rule 7(g). The  
5 Court finds that Plaintiff complied with Local Civil Rule 7(g)’s requirements. “[W]here new  
6 evidence is presented in a reply to a motion for summary judgment, the district court should not  
7 consider the new evidence without giving the [non-]movant an opportunity to respond.” *Dutta v.*  
8 *State Farm Mut. Auto. Ins. Co.*, 895 F.3d 1166, 1172 (9th Cir. 2018) (quoting *Provenz v. Miller*,  
9 102 F.3d 1478, 1483 (9th Cir. 1996)) (alteration in original). The Court will permit Plaintiff to  
10 respond to the new evidence and argument raised in Defendants’ reply briefs. Thus, Plaintiff’s  
11 request to strike is DENIED. But for each motion, Plaintiff may submit a surreply with  
12 additional argument and evidence. Plaintiff must file each brief (not to exceed five (5) pages of  
13 argument) by 5 p.m., Thursday, February 9, 2023.

14 Dated this 2nd day of February, 2023.

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16 John H. Chun  
17 United States District Judge  
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